

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MILLENNIUM TGA, INC.,

Plaintiff,

v.

JOHN DOE,

Defendant.

CASE NO. 4:11-cv-4501

Judge: Honorable Judge Vanessa D. Gilmore

**PLAINTIFF’S UNOPPOSED MOTION FOR EXTENSION OF 26(f) JOINT
DISCOVERY CONFERENCE**

Plaintiff Millennium TGA, Inc., by and through its undersigned counsel, and pursuant to Southern District of Texas Local Rule (hereinafter “LR”) 7.8, hereby moves this Court for administrative relief for an order continuing the 26(f) Joint Discovery Conference for good cause.

For the reasons more fully explained below, and in the Declaration of Paul Duffy (hereinafter “Duffy Decl.”), attached hereto as Exhibit A, Plaintiff respectfully requests that this Court continue the 26(f) Joint Discovery Conference to **August 31, 2012**, or to a later date that is in accordance with this Court’s schedule. This extension is necessary because the Defendant’s Internet Service Provider (“ISP”), Comcast Cable Communications LLC (“Comcast”),¹ has not yet provided Plaintiff with the information necessary to ascertain the identity of the Defendant in this case. There is currently no known individual to meet and confer with at a 26(f) joint

¹ See ECF No. 1-1.

discovery conference. An extension is, therefore, necessary until the identity of the Defendant is ascertained.

FACTUAL BACKGROUND

On December 20, 2011, Plaintiff filed its Complaint against John Doe alleging copyright infringement and related claims of civil conspiracy and contributory infringement. (ECF No. 1.) The next day, Plaintiff filed a Motion for Leave to Take Expedited Discovery so Plaintiff could subpoena certain ISPs and eventually ascertain the identities of John Doe and his joint tortfeasors. (ECF No. 2.) The Court granted Plaintiff's discovery motion on February 9, 2012. (ECF No. 6.) Within a week, Plaintiff issued the subpoenas on the relevant ISPs. Duffy Decl. ¶ 2. Several of the ISPs, including John Doe's ISP, Comcast, objected to Plaintiff's subpoenas. *Id.* ¶ 3. The objecting ISPs have not provided Plaintiff with the information sought in the subpoenas. *Id.* ¶¶ 3-4.

Plaintiff filed a motion to compel Comcast's compliance with Plaintiff's subpoena with the court that issued the subpoenas. *Id.* ¶ 4; *see also Millennium TGA, Inc. v. John Doe*, No. 12-00150 (D.D.C. Mar. 7, 2012), ECF No. 1. The court in the District of Columbia granted Plaintiff's motion to compel on April 18, 2012. *Id.*, ECF No. 15. Instead of providing Plaintiff with the Doe Defendant's identifying information, however, Comcast appealed the District of Columbia court's decision. *Id.*, ECF No. 16. On June 25, 2012, the District of Columbia court ruled that Comcast was to provide Plaintiff with the address (city and state) of the subscribers associated with the infringing IP addresses and then, based on that information, Plaintiff could later issue subpoenas in each of the jurisdictions where the subscribers reside to seek the remaining identifying information. *Id.*, ECF No. 27. As a result, Plaintiff has been unable to identify the John Doe Defendant.

DISCUSSION

Because there is no known Defendant with whome to meet and confer at the 26(f) joint discovery conference, Plaintiff requests an extension until Plaintiff is able to ascertain the identity of the Defendant. An extension will allow Plaintiff to be able identify the Defendant and inform him or her of this litigation and the 26(f) conference. Until that time, a Rule 26(f) conference would be unproductive as only Plaintiff would be able to attend. Having only a single party attending would be contrary to the purpose of the *joint* conference. Fed. R. Civ. P. 26(f); *see also* LR 16.1 (“the Court will require attendance at conference ‘by an attorney who has the authority to bind that party regarding all matters . . .’” (citing 28 U.S.C. § 473(b)(2))). The Rule 26(f) conference should take place once both parties are able to appear and provide a representative that can bind that party.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court continue the 26(f) Joint Discovery Conference to **August 31, 2012**, or to a later date that is in accordance with this Court’s schedule.

Respectfully submitted,

MILLENNIUM TGA, INC.

DATED: July 3, 2012

By: **DOUGLAS M. MCINTYRE & ASSOCIATES**

/s/ Douglas M. McIntyre
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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 3, 2012, all individuals of record who are deemed to have consented to electronic service are being served true and correct copy of the foregoing documents, and all attachments and related documents, using the Court's ECF system, in compliance with Local Rule 5.3.

/s/ Douglas M. McIntyre
DOUGLAS M. MCINTYRE